HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting.)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

Writ Petition No. 199/01 (S/S)

Ram Bharose Lal.

Vs.

Deputy I.G. of Police, Kumaon Region and others.

Approved for reporting.

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~~Not approved for reporting~~

Date of decision 30.08.2006

Initial of Judge

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 199 (S/S) OF 2001

Ram Bharose Lal,
S/o late Sri Nirbal Singh,
R/o Village-Padauliya,
P.S. Kauvar Gaon,
District-Badaun.
Presently posted at
Rudrapur Police line,
District- Udham Singh Nagar. .....Petitioner.

Versus

1. Deputy Inspector General of Police, Kumaon Region, Nainital.
2. Superintendent of Police, Udham Singh Nagar.
3. State of Uttaranchal, through its Secretary of Home, Secretariat, Vidham Bhawan, Dehradun.

.....Respondents.

30.08.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Chhitij Kumar Sharma, Advocate for the petitioner and Standing Counsel for the respondents.

2. By the present writ petition, the petitioner has sought following reliefs:

> *"1. To issue a writ order or direction in the nature of certiorari calling for the records of the case and to quash the impugned order dated 27.11.2000 contained in Annexure no. 6 passed by*

respondent no. 1 and quash the order dated 31.8.2000 contained in Annexure no. 4 passed by respondent no. 2 to this writ petition.

2. To issue a writ, order or direction in the nature of mandamus commanding respondent not to give effect to the impugned orders aforesaid,

3. To issue any other such order or direction which may deem fit and proper under the circumstances of the case.

4. Award cost to the petitioner."

3. The order dated 27.11.2000 was passed by the Deputy Inspector General of Police to the following effect:-

"(6) vihy esa rdZ vafdr fd;k x;k gS fd izkjfEHkd tkWp ds e/; ,oa foHkkxh; dk;Zokgh ds e/; vfHk;qDr lqjsUnz mQZ iIiw ds lkFk ds 8 cfUn;ksa ds c;ku vfHkfyf[kr ugha fd;ks x;s] lR;rk tkuus ds fy, bu cfUn;ksa ds c;ku vafdr fd;s tkus pkfg;s FksA

vihykFkhZ dk mDr rdZ cyghu gS D;ksafd bl izdj.k dh izkjfEHkd tkWp ds e/; vihydrkZ ,oa mlds lkFkh nksuksa dkfu0 }kjk Lo;a gh vius c;kuksa esa vfHk;qDr lqjsUnz mQZ iIiw ds dCts ls nks ikmp ns'kh 'kjkc rFkk 4000@& :Ik;s gksus dh ckr dks Lohdkj fd;k gS] buds c;kuksa ls vfHk;qDr lqjsUnz mQZ iIiw ls 2 'kjkc ds ikmp rFkk 4000@& :i;s cjken gksus dh ckr fl) gks pqdh gS] vr% tkap vf/kdkjh

}kjk vU; vkB cfUn;ksa ds c;ku vafdr fd;k tkuk vko’;d ugha le>k x;kA

vihykFkhZ }kjk vihy esa dksbZ ,slk vU; rdZ izLrqr ugha fd;k x;k gS ftlds vk/kkj ij vihy Lohd`r dh tk ldsA bl izdj.k essa mls nks’kh ik;s tkus ij mDr n.M vkns’k ikfjr fd;k x;k gS] tks fd fu;eksa ds vuq:i gSA

vihykFkhZ }kjk izLrqr vihy cyghu gS ,oaa vLohd`r gksus ;ksX; gSA

mijksDr rF;ksa dks n`f’Vxr j[kdj iqfyl v/kh{kd] m/keflag uxj ds iz’uxr vkns’k dks ;kFkkor j[kus dk vkns’k ikfjr djrs gq, vihy vLohd`rt dh tkrh gSA”

3. The order dated 31st August, 2000 was passed to the following effect:-

“vr% vkjksih dkfu0 185 l0iq0 jke Hkjksls yky ds }kjk izLrqr Li"Vhdj.k RkFkk i=koyh ij miyC/k vfHkys[kksa dks n`f"Vxr j[krs gq,] mls rhu o"kZ ds fy, dkfu0 ds osrueku ds U;wure Lrj vFkkZr :i;k 3050@& ij rRdky izHkko ls izR;kofrZr fd;s tkus ds vkns’k ikfjr fd;s tkrs gaSA”

4. As a result of the aforesaid orders, three increments of the petitioner have been stopped and the petitioner has been

reverted on the same salary of Rs. 3050/- for a period of three years.

5. Briefly stated, the petitioner was an employee in the Police Department and was given the duty to take the accused from the Jail to the Court of Chief Judicial Magistrate and to bring them back to the Jail. The accused namely Surendra alias Pappu along with eight other accused was handed over to the petitioner and other two police constables.

6. Petitioner took them to the Chief Judicial Magistrate and thereafter, came back to the Jail along with another accused and while entering into the Jail, a search was made and from the accused namely Surendra alias Pappu was found having drunk and was caught with Rs. 4000/- and two pouches of Desi Wine were also found.

7. According to the case of the petitioner, after the medical examination, the report was submitted, in which it was reported that the accused person has not consumed any alcoholic drink. The aforesaid report is quoted below:-

> *"Person does not appear to have consumed any alcoholic drink and is not at all intoxicated."*

8. The petitioner along with two other constables was charged. A preliminary inquiry was conducted by Circle Officer of Rudrapur, who has submitted that the punishment should be imposed on the petitioner. However, against the order of punishment, the petitioner preferred an appeal. The appeal was rejected.

9. Counsel for the petitioner has referred Section 7 of the Police Act, 1861, which reads as under:-

> *"7. **Appointment, dismissal, etc. of inferior officers.**—Subject to provisions of Article 311 of the Constitution and to such rules as the State Government may from time to time to make under this Act, the Inspector General, Deputy Inspector-General, Assistant Inspector General and District Superintendents of Police may at any time dismiss, suspend or reduce any police officer of the subordinate ranks whom they shall think fit remiss or negligent in the discharge of his duty or unit for the same;*
>
> *or may award any one or more of the following punishments to any police officer of the subordinate ranks who shall discharge his duty in a careless or negligent manner, or who by any act of his own shall render himself unfit for the discharge thereof namely:*
>
> *(a) fine to any amount not exceeding one month's pay;*
>
> *(b) confinement to quarters for a term not exceeding fifteen days, with or without punishment-drill, extra guards, fatigue or other duty:*
>
> *(c) deprivation of good conduct pay;*
>
> *(d) removal from any office of distinction or special emolument.*
>
> *(e) withholding of increments or promotion including stoppage at an efficiency bar."*

10. Counsel for the petitioner has referred Section 482 –A of the Police Regulation, which reads as under:-

> *"482-A. Every order withholding increment as a punishment shall state the period for which it is*

to be withheld. Such person shall not exceed one year and shall have the effect only of postponing the increment for the stated period."

11. Section 482-A has to be read along with Section 463, which reads as under:-

"463. Orders relating to increments of pay of sub-inspectors, under-officers and constables of all branches will be noted by the Superintendent in the remark column of the nominal roll which will be submitted for this purpose to the Superintendent on the tenth day of every month. When an increment is withheld an entry with reasons must be made in the officer's character roll as well as in the remarks column of the nominal roll. In any case in which the service of an officer is held not to satisfy the requirements of Fundamental Rule 24, the order withholding the increment must specify the period for which it is withheld. Such period may not exceed on year at a time, separate orders being passed annually if it is found necessary each year again to withholding the increment subject to a maximum of three years."

12. Section 482-A and 463 of the Police Regulations provide the stoppage of increment by the department for a period of one year and thereafter it shall not exceed three years. In the present case since an inquiry was initiated and after inquiry, the report was submitted and thereafter the punishment was awarded in accordance with Section 7 of the Police Act by stopping of increments, therefore, the stoppage of increments by the authority concerned, the same having been confirmed in appeal, requires no interference under Article

226/227 of the Constitution of India. Sections 463 and 482-A of the Police Regulations relate to the departmental action whereas the present action was taken in pursuance of the inquiry and as such the order of stoppage of three increments is wholly justified.

13. As will appear from Clause (e) of Section 7 that the authority concerned has power to withhold the increments or promotion including stoppage of efficiency bar. As will appear form Clause (e) of Section 7 of the Police Act, 1861 that the increment can be withheld and therefore, the authority concerned has withheld the increments for three years.

14. In view of the above, I do not find any illegality in the aforesaid orders However, the orders are clarified to this extent that if the petitioner has already completed three years, he will continue with his original salary what he was getting before passing of the impugned order and further with all consequential increments for which he is entitled.

15. Subject to the aforesaid modification, writ petition lacks merit and is dismissed.

30.08.2006 (Rajesh Tandon, J.)
Rathour